

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

THE JAMES MADISON PROJECT and
NOAH SHACHTMAN,

Plaintiffs,

v.

DEPARTMENT OF JUSTICE and
DEPARTMENT OF HOMELAND
SECURITY,

Defendants.

No. 1:17-cv-00390-CKK

JOINT STATUS REPORT

Defendants Department of Justice (“DOJ”) and Department of Homeland Security (“DHS”) (collectively, “Defendants”) and Plaintiffs The James Madison Project and Noah Shachtman (“Plaintiffs”) respectfully submit this Joint Status Report pursuant to the Court’s Minute Order, dated October 9, 2018. The parties report as follows:

1. Plaintiffs initiated this action under the Freedom of Information Act (“FOIA”). The Complaint alleges that this action involves FOIA requests submitted to DOJ’s Office of Legal Counsel (“OLC”), DHS, and four components of DHS (the Transportation Security Administration (“TSA”), U.S. Customs and Border Protection (“CBP”), U.S. Immigration and Customs Enforcement (“ICE”), and U.S. Citizenship and Immigration Services (“USCIS”)).
2. On May 10, 2017, Plaintiffs filed an Amended Complaint, which explains that the FOIA request to OLC was not actually submitted to the agency until March 24, 2017.
3. OLC, DHS, and the four DHS components have initiated searches for records responsive to Plaintiffs’ FOIA request.

4. TSA has completed its processing of Plaintiffs' request and released 35 pages of responsive records subject to FOIA, withholding some information in those records pursuant to the FOIA's statutory exemptions from disclosure and referring some information to DHS for further review. DHS processed TSA's referral and sent its response to Plaintiff on December 27, 2017.

5. With respect to OLC, DHS, and the remaining DHS components, the parties have conferred about the scope of Plaintiffs' requests, and Plaintiffs have agreed to certain limitations or clarifications of their scope.

6. CBP is making rolling productions and uploading records relating to the Executive Order to its online FOIA library. CBP's most recent release of records to Plaintiffs in this case was made on November 8, 2018, and totaled 849 pages. CBP is preparing another set of records for release and anticipates that its next production will be completed by January 30, 2019.

7. ICE has completed its processing of Plaintiffs' request and has now released all non-exempt records with the exception of the records it has referred for further review. ICE's most recent release of records to Plaintiffs in this case was made on March 6, 2018. ICE released three pages of records subject to FOIA, withholding some information in those records pursuant to the FOIA's statutory exemptions from disclosure. Another 14 pages have been referred for further intra- and/or inter-agency review. On May 31, 2018, DHS completed its further review of some records that ICE had referred to it. It released 56 pages in full or in part and withheld 4 pages in full. ICE is still awaiting the results of that further review, and following the completion of that process, ICE will endeavor to produce the remaining pages within 30 days.

8. USCIS has completed its processing of Plaintiffs' request and released 407 pages of records subject to FOIA in their entirety and 701 pages in part, withholding some information pursuant to the FOIA's statutory exemptions from disclosure. In addition, it referred 138 pages of records for further intra- and/or inter-agency review. In May 2018, USCIS released in part eight pages of records that had it had received back from consultation. In July 2018, USCIS released in part another eight pages of records that it had received back from consultation. USCIS's production is now complete.

9. OLC has been making approximately monthly productions since October 31, 2017. OLC's productions to date from this batch of documents total 5,030 pages, of which 4,371 pages have been withheld in full and 659 pages have been released in full or in part.

10. DHS has completed its initial search and review of potentially responsive records. That search and initial review has located 1149 pages of records subject to FOIA, which DHS reviewed, processed, and sent out for further review as necessary. On May 31, 2018, DHS made a production of records from this batch of documents, releasing 14 pages in full or in part and withholding 132 pages in full. DHS also completed its review of 60 pages referred by ICE, as explained in paragraph 7. On August 10, 2018, DHS made another production of 1149 pages. This release includes pages previously released to plaintiff and records that had been sent to other agencies for consult. DHS will make a final release once all the consults have been returned.

11. The parties agree that it is too early to determine whether Defendants will need to prepare Vaughn indices.

12. The parties respectfully propose that they file another Joint Status Report no later than January 29, 2019.

Dated: November 27, 2018

/s/ Bradley P. Moss
Bradley P. Moss, Esq.
D.C. Bar #975905
Mark S. Zaid, Esq.
D.C. Bar #440532

Mark S. Zaid, P.C.
1250 Connecticut Avenue, NW
Suite 200
Washington, D.C. 20036
(202) 454-2809
(202) 330-5610 fax
Brad@MarkZaid.com
Mark@MarkZaid.com

Attorneys for the Plaintiffs

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

ELIZABETH J. SHAPIRO
Deputy Branch Director

/s/ Vinita B. Andrapalliyal
VINITA B. ANDRAPALLIYAL
Trial Attorney
United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue NW
Washington, DC 20530
Telephone: (202) 305-0845
Fax: (202) 616-8470
vinita.b.andrapalliyal@usdoj.gov

Counsel for Defendants